IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO.122 OF 2006
IN
WRIT PETITION NO.295 OF 2003

Smt.Akkabai J. Karande .. . Petitioner
v/s.
The State of Mah. & ors. .. . Respondents

Mr.S.S.Lanke for petitioner.
Mr.R.V.Govilkar for res.No.4.

CORAM : H.L. GOKHALE &
S.C. DHARMADHIKARI, JJ.

DATED : 21st March 2006

P.C. :

1. Heard Mr.Lanke in support of this Motion. Mr.Govilkar appears for the contesting respondent No.4.

2. This Motion seeks modification of the order dated 9.9.2005 passed by a Division Bench presided over by A.P.Shah and S.C.Dharmadhikari, JJ. That order was passed by consent of the parties on Notice of Motion No.336 of 1995. A shop, which was demarcated in blue colour on the map annexed to the Motion, was to be made available to the petitioner by way of her rehabilitation. The construction is done. The shop is ready. Respondent No.4 has offered the shop to the petitioner to take possession thereof.

3. At this stage, the present Motion is taken out by submitting that this shop is near a toilet block and, therefore, inconvenient. A prayer is made that instead of the shop, which was agreed viz. shop No.1, shop No.8 be provided to the petitioner. Mr.Lanke, learned Counsel appearing for the petitioner, submits that, in fact, initially shop No.8 was agreed but later-on the petitioner agreed for this change to shop No.1.

4. Mr.Govilkar, learned Counsel appearing for respondent No.4, on the other hand, points out that this change was effected under the impugned order by consent after hearing Mr.Lanke, who was appearing for the petitioner. Now, a further change cannot be made. He, therefore, opposes the prayer made by Mr.Lanke.

5. As narrated above, the order dated 9.9.2005 is passed by consent. That being so, it can be altered only by consent. Mr.Govilkar states that respondent No.4 is not agreeable for any such change. In the circumstances, the Motion is rejected. However, it will be open to the petitioner to represent to respondent No.4 and it will be for respondent No.4 to consider if any

such change, as sought, should be considered.

6. Motion disposed of.

(H.L. GOKHALE, J.)

(S.C. DHARMADHIKARI, J.)